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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,387	04/18/2001	Paul Brand	P01.0064	5055

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EXAMINER

OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,387

Applicant(s)

BRAND ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2001 and 21 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Preliminary Amendment filed 2/21/01

1. Claims 1-6 were cancelled.

Claims 8-19 were added. Claims 8-19 were renumbered to claims 7-17 to provide consecutive numbering of the claims per 37 CFR 1.126. This action reflects the newly renumbered claims.

The title of the application has been amended.

The substitute specification and phrase "We claim as our invention:" have been entered into the record.

Claims 7-17 are pending in this application. Of these claims, claim 7 is independent.

Drawings

2. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, line 3; claim 11, lines 2 and 4; claim 12, line 2 and claim 13, line 2, it is suggested "said opening" be amended to --said lateral opening-- to clarify the opening in the tubular member from the opening in the housing.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 7-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Johansson et al. (US 6327502). The applied reference has a common assignee and a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

5. Claims 7-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Johansson et al. (US 6327502). Johansson et al. disclose and implantable stimulator housing with electrode connector.

As related to claim 7, a pacemaker is disclosed comprising a metallic housing (28) with a first wall with an opening and a second wall with a second opening, a substantially continuous metallic tubular member (34) with ends held in alignment with the housing openings by annular channels and a plurality of interior components within the tubular member (38, 39, 40, 41) to contact the electrical contact surfaces (47 and 48) of the contact plug (30) (figure 5; c 3, 13-16; c 4, ll 10-47).

As related to claim 8, the tube ends are bonded to the housing at the first and second openings by a weld (c 2, ll 17-22 and c 4, ll 5-9).

As related to claim 9, the tube ends are welded to the housing at the first and second openings (c 2, ll 17-22 and c 4, ll 5-9).

As related to claim 10, the tubular member has at least one lateral opening therein and has a contact surface (38, 39) connected to an interior component (40,41) to establish electrical contact between the interior and exterior of the metallic tube members (figure 5 and c 4, ll 10-30).

As related to claim 11, a mechanically attached ceramic plug (42) is disposed in and closes the opening (figure 5 and c 4, ll 20-30).

As related to claim 12, the ceramic plug is soldered in the opening (c 2, ll 17-22 and claim 4 (c 6, ll 5-13)).

As related to claim 13, the ceramic plug is bonded in the opening (c 2, ll 17-22 and claim 4 (c 6, ll 5-13)).

As related to claim 14, the contact surfaces are metal rings (38, 39) and the plug has a lateral opening aligned with the opening of the tubular member allowing access to the ring from the exterior of the tubular member (figure 5 and c 4, ll 10-22).

As related to claim 15, the metal rings (38, 39) have a central portion free from the ceramic of the ceramic plug producing an annular channel, read as a peripheral groove, allowing access to the ring from the interior of the metallic tubular member (figure 5 and c 4, ll 23-30).

As related to claim 16, a locking ring (37), plug (35) and plug (36), read as a locking arrangement, are disposed at the second tube end and are accessible from the second tube end to lock the lead (30) in the tubular member (figure 5 and c 4, ll 30-37).

As related to claim 17, the locking arrangement is partially removable by use of the threads in the bore of the plug (36) (c 4, ll 33-37).

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (703) 605-4355. The Examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4520 for regular communication and for After Final communications.

Art Unit: 3762

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist, telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

fpo
12/8/02

[Signature]
JEFFREY R. JASTRZAB
PRIMARY EXAMINER

3762

12/9/02